

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS-----X  
JAMES CARLINO,

Plaintiff,

v.

ROMAN CATHOLIC DIOCESE OF BROOKLYN, ST.  
TERESA OF AVILA PARISH, ST. TERESA OF AVILA  
SCHOOL, ST. MARY GATE OF HEAVEN PARISH, ST.  
MARY GATE OF HEAVEN SCHOOL, CHRIST THE KING  
REGIONAL HIGHSCHOOL, and CATHOLIC YOUTH  
ORGANIZATION OF THE DIOCESE OF BROOKLYN,  
INC.,Defendants.  
-----X

Index No.:

SUMMONSVenue is based on residence of  
one or more Defendant which  
is Queens, New York.

To the above-named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the attached Verified Complaint of Plaintiff, JAMES CARLINO, dated October 23, 2019, a true and accurate copy of which is served upon you herewith. You must serve your Verified Answer upon the undersigned attorneys either (1) within twenty days after service of this Summons and the attached Verified Complaint, exclusive of the day you received it. if you were served personally in the State of New York, or (2) within thirty days after service, exclusive of the day you received it, if you were not served personally in New York State.

PLEASE TAKE NOTICE that should you fail to serve your Verified Answer within the time prescribed under applicable law, Plaintiff, JAMES CARLINO, will take judgment against you by default for the relief demanded in the Verified Complaint pursuant to Section 3215 of the New York Civil Practice Law and Rules.

Dated: New York, New York  
October 23, 2019

Yours, ect.,

**NAPOLI SHKOLNIK PLLC**

A handwritten signature in black ink, appearing to read 'Craig Phemister', is written over a horizontal line.

Craig Phemister, Esq.  
*Attorney for Plaintiff*  
360 Lexington Avenue  
Eleventh Floor  
New York, New York 10017  
(212) 397-1000  
CPhemister@NapoliLaw.com

To:

ROMAN CATHOLIC DIOCESE OF BROOKLYN  
310 Prospect Park West  
Brooklyn, NY 11215

ST. TERESA OF AVILA PARISH  
109-55 128th St.  
South Ozone Park, NY 11420

ST. TERESA OF AVILA SCHOOL  
109-55 128th Street  
South Ozone Park, NY

ST. MARY GATE OF HEAVEN PARISH  
103-12 101st Ave  
Ozone Park, NY 11416

ST. MARY GATE OF HEAVEN SCHOOL  
104-06 101 St. Avenue  
Ozone Park, NY 11416

CHRIST THE KING REGIONAL HIGHSCHOOL CATHOLIC YOUTH ORGANIZATION  
OF THE DIOCESE OF BROOKLYN, INC.,  
66-25 79th Pl.  
Middle Village, NY 11379

SUPREME COURT OF THE STATE OF NEW YORK  
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ROMAN CATHOLIC DIOCESE OF BROOKLYN, ST.  
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Index No.:

**COMPLAINT**

Jury Trial Demanded

James Carlino, by his undersigned attorneys, for his Complaint, alleges on personal knowledge as to himself and on information and belief as to all other matters, as follows:

**NATURE OF THE ACTION**

1. This is an action to recover damages arising from Robert Oliva's ("Oliva") sexual molestation of Plaintiff James Carlino beginning when Carlino was approximately twelve years old and continuing until Carlino was approximately sixteen years old.

2. Oliva was Carlino's basketball coach at a youth basketball program operated in Queens County, New York, by Defendants Roman Catholic Diocese of Brooklyn, St. Teresa of Avila Parish, St. Teresa of Avila School, St. Mary Gate of Heaven Parish, St. Mary Gate of Heaven School, and Catholic Youth Organization of the Diocese of Brooklyn, Inc. (collectively, the "Basketball Sponsors"). Later, he became the basketball coach at Christ the King Regional

High School ("Christ the King"). (Together, Christ the King and the Basketball Sponsors are referred to as the "Supervisory Defendants").

3. Oliva engaged in explicit sexual behavior and lewd and lascivious conduct with Carlino on multiple occasions between 1974 and 1978 in Queens County, as well as in Massachusetts, Florida, Vermont, Quebec, and other locations.

4. In March, 2010, a grand jury in Boston, Massachusetts indicted Oliva on two counts of child rape and one count of dissemination of obscene matter to a child, arising out of Oliva's abuse of Carlino in Boston in 1976. The Massachusetts criminal proceedings have now concluded. On April 4, 2011, Oliva pled guilty to the molestation of Carlino.

5. It now appears that Carlino was not the only child that Oliva molested. As is usually the case with sexual predators who prey on children, Oliva molested other children as well. The Supervisory Defendants, who employed, supervised, and/ or directed Oliva, failed to take steps to prevent Oliva from molesting the children in his care. Instead, the Supervisory Defendants left a sexual predator in charge of school-age children and took no steps to protect the young victims on whom Oliva preyed.

6. Carlino now seeks damages from from the Supervisory Defendants who are legally responsible for Oliva's actions and who failed properly to supervise and/or direct Oliva.<sup>1</sup>

#### **THE PARTIES**

7. Plaintiff James Carlino is an individual who resides in Florida. At the time of the events complained of, he was a minor residing in Queens County, New York.

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<sup>1</sup> Plaintiff Carlino originally filed claims against the Supervisory Defendants and Basketball Sponsors in the Supreme Court of Queens in *Carlino, James vs. Oliva, Robert et al.*, Index Number: 0008155/2011. The Supervisory Defendants and Basketball Sponsors were dismissed without prejudice in that action because of statute of limitation concerns. However, the Defendants may now be properly sued pursuant New York's passage of the Child Victim's Act, which provides a one-year look back for previously expired claims. After filing, Plaintiff shall seek to have the two cases consolidated.

8. Defendant Roman Catholic Diocese of Brooklyn (“Diocese”) is a New York not-for-profit corporation operating in Kings and Queens Counties, New York.

9. Defendant St. Teresa of Avila Parish (“St. Teresa Parish”) is a New York not-for-profit corporation located in Queens County.

10. Defendant St. Teresa of Avila School (“St. Teresa School”) is an accredited Catholic school in South Ozone Park, Queens, for children in pre-kindergarten through eighth grade. The St. Teresa School is operated by the Diocese and the St. Teresa Parish.

11. Defendant St. Mary Gate of Heaven Parish (“St. Mary Parish”) is a New York not-for-profit corporation located in Queens County.

12. Defendant St. Mary Gate of Heaven School (“St. Mary School”) is an accredited Catholic school in Ozone Park, Queens, for children in kindergarten through eighth grade. The St. Mary School is operated by the Diocese and the St. Mary Parish.

13. Defendant Christ the King Regional High School (“Christ the King”) is an independent Catholic secondary school in Middle Village, Queens.

14. Defendant Catholic Youth Organization of the Diocese of Brooklyn, Inc. (“CYO”) is a New York non-for-profit corporation operating in Kings and Queens Counties, New York.

15. Throughout the relevant period, one or more of the Supervisory Defendants were responsible for the hiring, retention, direction, and supervision of Robert Oliva in his role as basketball coach, mentor, and counselor for young boys.

### **FACTUAL BACKGROUND**

16. The Diocese and the St. Teresa Parish operate the St. Teresa School in Queens County, New York. During the period 1972-1978, the Diocese, the St. Teresa Parish, the St. Teresa School, and/or CYO together operated a youth basketball program (the “Basketball

Program”) based at the St. Teresa School. At some point between 1972 and 1978, the Basketball Program moved from the St. Teresa Parish and the St. Teresa School to the St. Mary Parish and the St. Mary School and was operated by the Diocese, the St. Mary Parish, the St. Mary School, and/ or CYO at that location. Beginning at some point prior to 1972, and continuing until 1978, the Basketball Sponsors employed Oliva as a coach for the Basketball Program.

17. Oliva's duties and responsibilities at the Basketball Program included supervising, interacting with, mentoring, and counseling minor boys.

18. Carlino began participating in the Basketball Program, and was coached by Oliva, when he was less than ten years of age.

19. Oliva developed an inappropriate relationship with Carlino, inducing Carlino, as a very young child, to look up to Oliva, and to place absolute trust and confidence in Oliva. Oliva then abused that trust and confidence by sexually molesting Carlino.

20. From approximately 1974, when Carlino was approximately twelve years of age, to approximately 1978, when Carlino was approximately sixteen years of age, Oliva repeatedly engaged in explicit sexual behavior and lewd and lascivious conduct with Carlino, including but not limited to, fondling Carlino's genitals and masturbating Carlino; forcing Carlino to fondle Oliva's genitals and masturbate Oliva; raping Carlino by performing oral sex on Carlino; raping Carlino by forcing Carlino to perform oral sex on Oliva, and, on at least one occasion, penetrating him anally with a body part. Oliva further threatened to penetrate Carlino anally on other occasions, either with one or more body part or with a miniature baseball bat.

21. Oliva repeatedly engaged in this explicit sexual behavior and lewd and lascivious conduct with Carlino in the State of New York, in Queens County.

22. Oliva also repeatedly took Carlino outside of New York to engage in explicit sexual behavior and lewd and lascivious conduct with Carlino and did engage in explicit sexual behavior and lewd and lascivious conduct with Carlino in, among other locations, the states of Massachusetts, Vermont, and Florida, as well as other states, and the Province of Quebec, Canada.

23. In the summer of 1976, Oliva took Carlino on an overnight trip to see a Red Sox-Yankees game in Boston, Massachusetts. Oliva sexually molested Carlino at the hotel where the two of them stayed, including performing oral sex on Carlino. Carlino was 14 years old.

24. Between 1974 and 1978, Oliva molested Carlino well over 100 times.

25. Oliva's sexual abuse of Carlino continued after Oliva became the basketball coach at Christ the King. Carlino visited Oliva at Christ the King and Oliva molested him on the premises of the Christ the King school.

26. Oliva was acting within the scope of his employment as a coach and mentor in soliciting Carlino's trust, and in meeting with Carlino alone outside the supervision of other adults. Oliva abused Carlino's trust and used such meetings as opportunities to rape and otherwise molest Carlino.

27. Oliva was acting within the scope of his employment as a coach and mentor when he took Carlino to sporting events outside the State. Oliva used these opportunities to rape and otherwise molest Carlino.

28. The Supervisory Defendants hired and/or appointed Oliva as a coach, mentor, and counselor for minor boys in youth sports programs. By so hiring or appointing him, the Supervisory Defendants made certain representations about Oliva's character, specifically that Oliva was a role model for minor boys and an individual to whom minor boys could be safely

entrusted. At the time they hired and/ or appointed Oliva, and made these representations about his character, the Supervisory Defendants knew, or should have known, of Oliva's propensity to molest boys and should not have put him in a position of trust and confidence with, and authority over, young boys.

29. The Supervisory Defendants retained, supervised, and/or directed Oliva in his role as coach, mentor, and counselor for minor boys in youth sports programs. By so retaining him, the Supervisory Defendants made certain representations about Oliva's character, specifically that Oliva was a role model for minor boys and an individual to whom minor boys could be safely entrusted. During the time that they retained Oliva as a coach, and made these representations about his character, the Supervisory Defendants knew, or should have known, of Oliva's propensity to molest boys, and, in particular, of his inappropriate relationship with Carlino. Rather than taking steps to prevent Oliva from sexually assaulting children, including removing him from a position of trust and confidence with, and authority over, young boys, the Supervisory Defendants instead turned a blind eye while Oliva repeatedly molested Carlino over a four-year period. The Supervisory Defendants failed to direct and/or supervise Oliva in a manner to prevent, or detect, Oliva's sexual abuse of minor boys, including Carlino.

30. As a result of Oliva's sexual abuse, Carlino suffered physical, psychological, and emotional injury. Carlino experienced feelings of guilt, loss of self-respect, shame, embarrassment, sadness, anger, depression, anxiety, and confusion resulting from Oliva's sexual abuse. Carlino developed life-long problems with authority, with sex, and with being touched as a result of Oliva's sexual abuse. He suffered from nightmares, panic attacks, and flashbacks.

31. Carlino only recently came to understand that he had been harmed and that the harm was caused by the explicit sexual behavior and lewd and lascivious acts of Oliva. Oliva



“stole his life” from him, by molesting him when he was a child and leaving him with lifelong, deep-seated problems whose origins he did not until recently suspect or understand.

### CAUSES OF ACTION

#### FIRST CAUSE OF ACTION: BATTERY (Against Oliva and the Basketball Sponsors)

32. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

33. On numerous occasions from 1974 to 1978, Defendant Oliva intentionally touched Carlino’s body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Such bodily contact was offensive and was without consent, because Carlino, as a minor, was incapable of consenting to these acts.

34. At the time Oliva offensively touched Carlino’s body, Oliva was employed or appointed by some or all of the Supervisory Defendants as Carlino’s coach, mentor, and counselor. It was part of Oliva’s job as role model and coach to gain Carlino’s trust. Oliva used his position, and the representations made by the Supervisory Defendants about his character that accompanied that position, to gain Carlino’s trust and confidence and to create opportunities to be alone with, and touch, Carlino.

35. The Basketball Sponsors are liable for Oliva’s offensive bodily contact under the doctrine of *respondeat superior*.

36. Carlino suffered injury as a result of Oliva's offensive bodily contact, including psychological and emotional injury as described above.

37. By the reason of the foregoing, Oliva and the Basketball Sponsors are liable to Carlino for battery in an amount to be proved at trial, but no less than \$20,000,000.

SECOND CAUSE OF ACTION: ASSAULT  
(Against Oliva and the Basketball Sponsors)

38. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

39. On numerous occasions from 1974 to 1978, Defendant Oliva intentionally touched Carlino's body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Oliva also threatened to penetrate Carlino anally. Such conduct placed Carlino in imminent apprehension of harmful contact, including apprehension of further sexual contact and further anal penetration.

40. At the time Oliva offensively touched Carlino and threatened further touching, Oliva was employed or appointed by some or all of the Supervisory Defendants as Carlino's coach, mentor, and counselor. It was part of Oliva's job as role model and coach to gain Carlino's trust. Oliva used his position, and the representations made by the Supervisory Defendants about his character that accompanied that position, to gain Carlino's trust and confidence and to create opportunities to be alone with, and touch, Carlino.

41. The Basketball Sponsors are liable for Oliva's conduct under the doctrine of *respondeat superior*.

42. Carlino suffered injury as a result of Oliva's conduct, including psychological and emotional injury as described above.

43. By the reason of the foregoing, Oliva and the Basketball Sponsors are liable to Carlino for assault in an amount to be proved at trial, but no less than \$20,000,000.

**THIRD CAUSE OF ACTION: NEGLIGENT HIRING**  
(Against Supervisory Defendants)

44. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

45. Oliva was hired as a coach for the Basketball Program by some or all of the Basketball Sponsors. Oliva was subsequently hired as a coach by Christ the King.

46. The positions for which Oliva was hired required him to work closely with, mentor, and counsel, young boys.

47. The Supervisory Defendants were negligent in hiring Oliva because they knew, or if they did not know, they should have known, of his propensity to develop inappropriate relationships with boys in his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys.

48. Oliva would not and could not have been in a position to sexually abuse Carlino had he not been hired by the Basketball Sponsors to coach, mentor, and counsel boys in the Basketball program, including Carlino. Oliva continued to molest Carlino while at Christ the King, including on the Christ the King premises.

49. Carlino suffered injury as a result of Oliva's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

50. By the reason of the foregoing, Defendants are liable to Carlino for their negligent hiring of Oliva in an amount to be proved at trial, but no less than \$20,000,000.

**FOURTH CAUSE OF ACTION: NEGLIGENT  
RETENTION, SUPERVISION AND/OR DIRECTION**  
(Against Supervisory Defendants)

51. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

52. At all times while Oliva was employed or appointed by the various Supervisory Defendants, he was supervised by, under the direction of, and/or answerable to, the various Supervisory Defendants and/or their agents and employees.

53. The Supervisory Defendants were negligent in their direction and/ or supervision of Oliva in that they knew, or if they did not know, they should have known, of his propensity to develop inappropriate relationships with boys under his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys, yet they failed to take steps to prevent such conduct from occurring.

54. The Supervisory Defendants were negligent in their retention of Oliva in that that they knew, or if they did not know, they should have known, of his propensity to develop inappropriate relationships with boys under his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys, yet they retained him in his position as coach and counselor to such boys and thus left him in a position to continue such behavior.

55. The Supervisory Defendants were further negligent in their retention, supervision, and/or direction of Oliva in that Oliva sexually molested Carlino on the premises of one or more Supervisory Defendants. The Supervisory Defendants failed to take reasonable steps to prevent such events from occurring on their premises.

56. Oliva would not and could not have been in a position to sexually abuse Carlino had he not been negligently retained, supervised, and/or directed by the Supervisory Defendants as a coach, mentor, and counselor to the boys in the Basketball program, including Carlino, and as a basketball coach by Christ the King.

57. Carlino suffered injury as a result of Oliva's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

58. By the reason of the foregoing, Supervisory Defendants are liable to Carlino for their negligent direction, supervision and/or retention of Oliva in an amount to be proved at trial, but no less than \$20,000,000.

**FIFTH CAUSE OF ACTION: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
(Against the Basketball Sponsors)

59. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

60. The sexual abuse of Carlino when Carlino was a minor was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized community.

61. The Basketball Sponsors knew or disregarded the substantial probability that his conduct would cause severe emotional distress to Carlino.

62. Carlino suffered severe emotional distress including psychological and emotional injury as described above. This distress was caused by Oliva's sexual abuse of Carlino.

63. At the time Oliva molested Carlino, which Oliva knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, Oliva was employed as Carlino's coach, mentor, and counselor by some or all of the Basketball Sponsors. It was part of Oliva's job as role model and coach to gain Carlino's trust. Oliva used his position, and the representations made by the Supervisory Defendants about his character that accompanied that position, to gain Carlino's trust and confidence and to create opportunities to be alone with, and touch, Carlino.

64. The Basketball Sponsors are liable for Oliva's conduct under the doctrine of *respondeat superior*.

65. By the reason of the foregoing, Oliva and the Basketball Sponsors are liable to Carlino for intentional infliction of emotional distress in an amount to be proved at trial, but no less than \$20,000,000.

**SIXTH CAUSE OF ACTION: NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**  
(Against the Basketball Sponsors)

66. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

67. The Basketball Sponsors owed a duty to Carlino because Carlino was a minor entrusted to their care and because the Basketball Sponsors, through their hiring and/or appointment, and their retention of Oliva, represented that Oliva was a role model for minor boys and an individual to whom minor boys could be safely entrusted.

68. The Basketball Sponsors breached their duty to Carlino by negligently hiring, appointing, retaining, supervising, and/ or directing Oliva and in failing to protect Carlino from a sexual predator.

69. Carlino suffered severe emotional distress including psychological and emotional injury as described above. This distress was a direct result of the Supervisory Basketball Sponsors' breach of their duty.

70. In addition to their own direct liability for negligently inflicting emotional distress on Carlino, the Basketball Sponsors are also liable for Oliva's negligent infliction of emotional distress under the doctrine of *respondeat superior*. At the time Oliva breached his duty to Carlino, Oliva was employed as Carlino's coach, mentor, and counselor by some or all of the Basketball Sponsors. It was part of Oliva's job as role model and coach to gain Carlino's trust. Oliva used his position, and the representations made by the Supervisory Defendants about his character that

accompanied that position, to gain Carlino's trust and confidence and to create opportunities to be alone with, and touch, Carlino.

71. By reason of the foregoing, the Basketball Sponsors are liable to Carlino for negligent infliction of emotional distress in an amount to be proved at trial, but no less than \$20,000,000.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Awarding compensatory damages in an amount sufficient to compensate Plaintiff for his injuries;
- B. Awarding Plaintiff costs and disbursements and attorneys' fees to the extent available by law; and
- C. Awarding such other and further relief as this Court may deem just and proper.

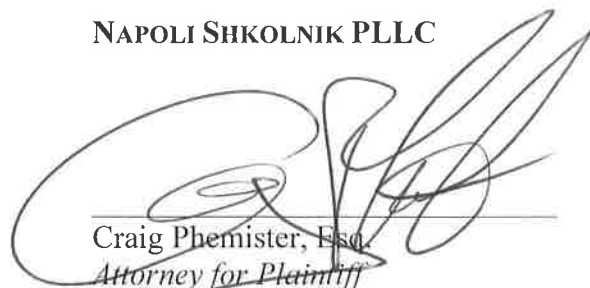
**JURY DEMAND**

72. Plaintiff demands a trial by jury of all issues triable by jury in this action.

Dated: New York, New York  
October 23, 2019

Yours, ect.,

**NAPOLI SHKOLNIK PLLC**



Craig Phemister, Esq.  
*Attorney for Plaintiff*  
360 Lexington Avenue  
Eleventh Floor  
New York, New York 10017  
(212) 397-1000  
CPhemister@NapoliLaw.com

VERIFICATION

STATE OF NEW YORK            )  
  )       ss:  
COUNTY OF NEW YORK        )

CRAIG PHEMISTER, an attorney duly admitted to practice law in the Courts of this State, affirms the following under penalties of perjury:

I am the attorney for the plaintiff(s) in the above entitled action. I have read the foregoing SUMMONS AND COMPLAINT and know the contents thereof, and upon information and belief, affirmant believes after an inquiry reasonable under the circumstances the matters alleged herein to be true, and that the contentions herein are not frivolous, as that term is defined in Part 130.

The source of affirmant's information and the grounds of her belief are communications, papers, reports and investigations contained in the file maintained by this office.

Dated: New York, New York  
October 23, 2019

Yours, etc.,

NAPOLI SHKOLNIK PLLC

  
Craig Phemister, Esq.  
*Attorney for Plaintiff*



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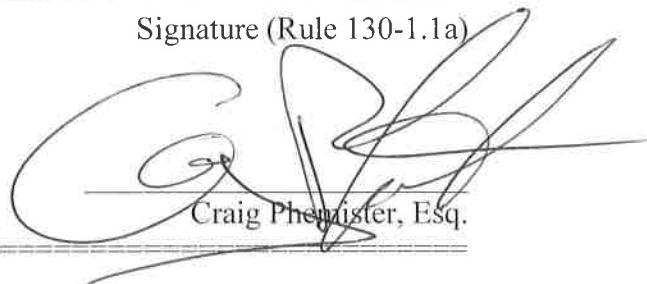
**SUMMONS & VERIFIED COMPLAINT**

**NAPOLI SHKOLNIK PLLC**

**Attorneys for  
PLAINTIFF**

**Office and Post Address:  
Napoli Shkolnik PLLC  
360 Lexington Avenue  
Eleventh Floor  
New York, New York 10017  
Telephone: (212) 397-1000  
Facsimile: (646) 843-7603**

Signature (Rule 130-1.1a)

A handwritten signature in black ink, appearing to read 'Craig Phenister', is written over a horizontal line. The signature is stylized with large, sweeping loops.

Craig Phenister, Esq.